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April 25, 2007

BY E-MAIL AND FIRST CLASS MAIL

Hon. Henry A. Waxman
Chairman
U.S. House of Representatives
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Chairman:

I am writing on behalf of the Republican National Committee ("RNC"), in response to your April 20, 2007 letter to RNC Chairman Mike Duncan. You stated that you intend to schedule a business meeting for today to consider a motion to subpoena records from the RNC.

Over the past several weeks, the RNC has gone to great lengths to cooperate with the Committee's inquiries. These efforts included an extensive two-hour briefing with Committee staff in which the RNC provided detailed responses to many of the Committee's questions. In fact, the letters you sent to members of the Cabinet on April 12, shortly after the briefing ended, confirm the detailed nature of the information that the RNC provided, including some of the very same "basic information" about the e-mail accounts that you now accuse the RNC of improperly withholding.

The RNC also has acted in good faith in responding to the Committee's requests for e-mails in the RNC's possession. On April 12, Committee staff agreed in principle to the use of search terms in reviewing e-mails for responsiveness to the Committee's requests. When dealing with large volumes of e-mail, as we are here, it is the standard practice in electronic discovery matters across the country and in many litigation contexts to use search terms as a means of reducing the burden, expense, and time required to complete a search for responsive e-mails. For

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this very reason, the House Judiciary Committee staff have agreed in principle to the use of search terms for the RNC's response to that Committee's document requests, and the RNC and Judiciary Committee staff are amicably negotiating the terms to be used.

In an effort to reach a similar agreement with your Committee, on April 16 the RNC submitted proposed search terms to your staff, including some terms that were intentionally made extremely broad as a sign of good faith. Those search terms covered the two document requests for which Committee staff expressly invited the RNC to propose terms. More than a week later, the RNC is still waiting for a response to those proposed terms or for the staff to suggest other possible terms for consideration. On April 12, Committee staff also expressly acknowledged in a telephone conversation with RNC counsel that the Committee's third request for documents is overly broad and promised to suggest ways to narrow that request and to identify suggested search terms for it. The RNC is still waiting for the Committee's recommendation on how best to narrow that request. Until the Committee provides these responses, it is unclear how the Committee expects the RNC to proceed with a review of the voluminous electronic data that the RNC has preserved, let alone proceed with a production of responsive documents.

Accordingly, we request once again that the Committee respond to the RNC's suggested search terms, propose reasonable search terms of its own if necessary, and identify suggested search terms to narrow the Committee's concededly overbroad third document request. Demanding a fixed schedule for production of documents, from a massive preserved set of e-mails, while refusing to agree to search terms defining the scope of that very review is simply unreasonable.

As we have explained to your staff, the RNC has also been working diligently to identify and preserve all potentially relevant data that may exist. These efforts include retaining a leading, nationally-known computer forensics firm, Stroz Friedberg, LLC, to provide advice and technical support. Over the last several days, Stroz Friedberg imaged several RNC-owned

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computers and blackberries that are currently being used by White House employees. The analysis of the data that Stroz Friedberg collected will take some time and, accordingly, we request the Committee's patience so that we may provide the Committee with the most complete and accurate information possible.

Nonetheless, as part of the RNC's continuing efforts to respond to the Committee's requests, the following is the current list of users who we believe are or were White House employees using RNC accounts for whom we have been able to identify active e-mail data on operational RNC servers:

Bartlett, Dan
Best, Trey
Britt, Mike
Cherry, Jane
Damas, Raul
Danforth, Melissa
Dennard, Paris
Ellis, Michael
Felts, Jonathan
Goergen, BJ
Hernandez, Israel
Hughes, Taylor
Huntsberry, Jason
Jackson, Barry
Jennings, Scott
Kubena, Korinne
Martin, Cathie
McBride, Anita
McBrien, Lauren

McLaughlin, Mindy
OPA Intern
Raines, Mel
Ralston, Susan
Rosenberger, Cliff
Rove, Karl
Schlapp, Matt
Seaton, Jon
Sforza, Scott
Sinatra, Nick
Smith, Brad
Soper, Steven
Swineheart, Jessica
Taylor, Sara
Thompson, Nicholas
Webster, Jocelyn
Wehner, Pete
Willeford, Emily

The "OPA Intern" account appears to be an account used by various Office of Political Affairs interns. As the RNC is still in the early stages of its analysis, we expect that this list will require revisions at a later date. For example, again, this list does not yet reflect a full analysis of active e-mail files available on hard drives and blackberries used by current White House employees, which will likely confirm the existence of additional data.

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To date, the RNC has gathered approximately 25,500,000 kilobytes of e-mail data from the 37 individuals listed above. However, as much of the data currently appears to be in compressed form, the actual total amount of data that has been gathered to date from these individuals may be significantly larger than this figure. This figure will almost certainly increase once Stroz Friedberg completes the collection of active e-mail files off of hard drives and blackberries. Clearly, the existence of such a large amount of data that the RNC has preserved over the years demonstrates the significant need for the Committee to engage in a meaningful dialogue regarding the scope of the document review, in order to avoid a monumentally expensive and time-consuming effort that will needlessly consume and waste RNC resources.

We trust that this letter will alleviate some of the concerns you expressed in your letter of April 20, and we again reiterate the RNC's interest in reaching a mutually satisfactory resolution of this matter with the Committee, including resolving negotiations regarding search terms so that the RNC may commence its review of the e-mails. We respectfully renew our request for the Committee to respond to the RNC's suggested search terms and to propose its own terms to narrow the scope of the Committee's third document request.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Kelner", with a long horizontal flourish extending to the right.

Robert K. Kelner

cc: Rep. Tom Davis
Ranking Minority Member